

**INTERLOCAL AGREEMENT FOR THE COLLECTION,
DISTRIBUTION, AND EXPENDITURE OF SCHOOL IMPACT FEES**

THIS AGREEMENT is entered into this 6th day of December 2006, by and between the City of North Bend (the "City") and the Snoqualmie Valley School District No. 410 (the "District").

WHEREAS, the Washington State Legislature passed the Growth Management Act, RCW 36.70A et seq. and RCW 82.02 et seq. (the "Act"), which authorize the collection of impact fees on development activity to provide public school facilities to serve new development; and

WHEREAS, the Act requires that impact fees may be collected for public facilities that are addressed by a capital facilities element of a comprehensive plan; and

WHEREAS, the City has adopted Ordinance No. 1260 for the purposes of implementing the Act; and

WHEREAS, the District has prepared a Capital Facilities Plan in compliance with the Act and the plan has been adopted by reference in the capital facilities element of the City's Comprehensive Plan; and

WHEREAS, upon adoption of Ordinance No. 1260, the City will collect impact fees on certain new residential development on behalf of the District; and

WHEREAS, the City and the District enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, Chapter 39.34 RCW, for the purposes of administering and distributing the authorized impact fees;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, IT IS AGREED THAT:

I. GENERAL AGREEMENT

The City and the District agree to comply with the terms of this Agreement, which governs the collection, distribution, and expenditure of school impact fees.

II. RESPONSIBILITIES OF THE DISTRICT

The District, by and through its employees, agents, and representatives, agrees to:

A. Annually submit to the City a six-year Capital Facilities Plan or an update of a previously adopted plan that meets the requirements of the Act and Ordinance No. 1260 on or before June 30th of each year.

B. Authorize the County, as Treasurer for the District, to establish a District Impact Fee Account or Sub-account in which impact fee revenues, interest revenues and transfers of impact fees to the District Capital Projects or Debt Service Fund will be recorded.

C. Request transfers from the County's District Impact Fee Account or Sub-account to the District Capital Projects or Debt Service Fund on a transfer request form. The request shall include a certification that the District has expended or will expend the funds on facilities identified in the District's Capital Facilities Plan, which has been adopted by reference in the capital facilities element of the City's Comprehensive Plan and by reference in the King County Comprehensive Plan and as authorized by Ordinance No.1260.

D. Issue a warrant or warrants for the funds prior to submitting a request for transfer or issue a warrant or warrants for the funds within five days after the funds have been transferred into the District Capital Projects or Debt Service Fund.

E. Expend impact fee revenues provided to the District under this Agreement, and all interest proceeds on such revenues, solely for expenditures as authorized by Ordinance No.1260 related to facilities identified in the District's Capital Facilities Plan.

F. Prepare an annual report in accordance with the requirements of RCW 82.02.070 and Ordinance No. 1260 showing the system improvements that were financed in whole or in part by impact fees and the amount of funds expended. The District's annual report shall be sent to the City on or before June 30th of each year for the preceding calendar year.

G. Refund impact fees and interest earned on impact fees disbursed to the District whenever required to do so by applicable law or order of a court of competent jurisdiction directed to the City or to the District; including but not limited to: (1) when the proposed development activity does not proceed and no impact to the District has resulted, unless the District determines that it has expended or encumbered the fees in good faith prior to the application for a refund; (2) when the impact fees or interest earned on impact fees are not expended or encumbered within the time limits established by law; or (3) when the school impact fee program is terminated.

H. Maintain all accounts and records necessary to ensure proper accounting for all impact fee funds and compliance with this Agreement, the Act, and Ordinance No. 1260.

I. Comply with the State Environmental Policy Act, Chapter 43.21C RCW.

III. RESPONSIBILITIES OF THE CITY OF NORTH BEND

The City of North Bend, by and through its employees, agents, and representatives, agrees to:

A. Timely review and take action on the District's updated Capital Facilities Plan and revised impact fee schedule for the District.

B. Deposit all impact fees collected on behalf of the District and interest earned thereon in a District Impact Fee Account or Sub-account in the King County Treasurer's Office within ten (10) days of receipt.

C. Prepare an annual report showing the source and amount of all fees collected, interest earned on behalf of the District, the amount of funds distributed to the District, and the system improvements that were financed in whole or in part by impact fees and the amount of funds expended as reported by the District pursuant to Section II(F) of this Agreement.

D. Determine whether applicants are excluded from the application of the impact fee pursuant to Section 6 of Ordinance No.1260.

IV. GENERAL TERMS

A. This Agreement shall be effective when executed by both parties.

B. It is recognized that amendments to this Agreement may become necessary, and such amendments shall become effective only when the parties have executed a written addendum to this Agreement.

C. The parties acknowledge that the City is vested with the authority to impose and collect school impact fees. The parties agree that, except as otherwise specifically provided for herein, the City shall in no event be responsible for the payment of any funds to the District, except for impact fees collected for the District and interest thereon.

V. AUDIT

A. The District's records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review, or audit by the City or appropriate state agency.

B. The District agrees to cooperate with any monitoring or evaluation activities conducted by the City that pertain to the subject of this Agreement. The District agrees to allow the City, or appropriate state agencies and/or any of their employees, agents, or representatives to have full access to and the right to examine during normal business hours, all of the District's records with respect to all matters covered by this Agreement. The City and/or any of its employees, agents, or representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all invoices, materials, payrolls, and record of matters covered by this Agreement. The City will give fifteen (15) days' advance notice to the District of fiscal audits to be conducted.

C. The results and records of said audit shall be maintained and disclosed in accordance with Chapter 42.17 RCW.

VI. INDEMNIFICATION

A. The District shall, at its cost and expense, protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents, from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the acts or omissions of the District its officers, employees, or agents, relating in any way to the City of North Bend school impact fee program. By way of example, and not of limitation, of the foregoing, the District shall protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents, from any and all costs, claims, judgments, or awards of damages arising out of or in any way resulting from the District's (by its officers, employees, agents, or representatives) negligent acts or omissions; intentional acts or omissions; any liability arising from an audit of the District's impact fee account; or failure for any reason to comply with the terms of this Agreement, the terms of the Act, or the terms of the City of North Bend Ordinance No.1260, all as may be amended from time to time.

B. The District further agrees that the District shall, at its own cost and expense, protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the District's failure to refund impact fees, including but not limited to, a determination that impact fees from the development activity that was not completed are not refundable because the funds were expended or encumbered by the District whether or not the District's determination was made in good faith, provided, however, that if the District offers to defend, the District shall not be liable for any of the City's attorney's fees or costs incurred after such offer to defend is made; provided, further, that if the District authorizes the City or County to refund any impact fees from the District's temporary account at the City or from the District Impact Fee Account or Sub-account, and the City or the County fails to do so, this section shall not apply.

C. The District's duties to the City under this section shall not be diminished or extinguished by the prior termination of this Agreement pursuant to Section VII.

D. The City shall, at its own cost and expense, protect, defend, indemnify, and hold harmless the District, its officers, employees, and agents from that portion of any costs, claims, judgments, or awards of damages that exceeds the amount of impact fees the City has collected on behalf of the District resulting from the City's (by its officers, employees, agents, or representatives) negligent acts or omissions; intentional acts or omissions; or failure for any reason to comply with the terms of this Agreement, the terms of the Act, or the terms of the City of North Bend Ordinance No.1260, all as may be amended from time to time. It is the intent of this Section that any liability created by the City's performance of its duties under this Agreement, the Act, or the terms of the City of North Bend Ordinance No.1260 be satisfied first out of any impact fees

attributable to the activity out of which the liability arises that have been collected by the City on behalf of the District for the particular development activity at issue, and only in the event that such impact fees collected for the particular development activity at issue are insufficient, shall the City be liable to satisfy the liability.

E. The City's duties to the District under this section shall not be diminished or extinguished by the prior termination of this Agreement pursuant to Section VII.

VII. TERMINATION

A. The obligation to collect impact fees under this Agreement may be terminated without cause by the City, in whole or in part, at any time. All other obligations under this Agreement shall remain in effect until both of the following conditions have been satisfied: (1) the City or the District provides written notice that this Agreement is being terminated; and (2) neither the City nor the District retains unexpended or unencumbered impact fees or interest earned thereon. The obligations under Section VI of this Agreement shall be continuing and shall not be diminished or extinguished by the termination of this Agreement.

B. The District, working with its Treasurer, shall ensure that upon termination of this Agreement, any remaining unexpended or unencumbered funds are refunded pursuant to RCW 82.02.080.

C. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or law that either party may have in the event that the obligations, terms, and conditions set forth in this Agreement are breached by the other party.

VIII. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

IX. NONDISCRIMINATION

There shall be no discrimination against any employee or independent contractor paid by any funds that are the subject of this Agreement or against any applicant for such employment because of race, religion, color, sex, age, sexual orientation, handicap, or national origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training.

The District and any independent contractor paid by funds that are the subject of this Agreement shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended.

X. RIGHTS TO OTHER PARTIES

It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and conveys no right to any other party.

XI. GOVERNING LAW AND FILING

This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Washington. This Agreement shall be filed with the Secretary of the District's Board of Directors and the City of North Bend.

XII. ADMINISTRATION

A. The City's representative shall be the City Administrator.

Address: City of North Bend
211 Main Avenue North
P.O. Box 896
North Bend, WA 98045
Phone: (425) 888-1211

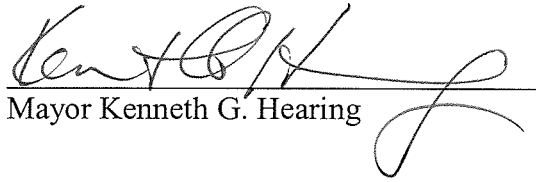
B. The District's representative shall be J. Ronald Ellis, Director of Business Services.

Address: Snoqualmie Valley School District No. 410
8001 Silva Avenue S.E.
P.O. Box 400
Snoqualmie, Washington 98065
Phone: (425) 831-8011

XIII. ENTIRE AGREEMENT/WAIVER OF DEFAULT

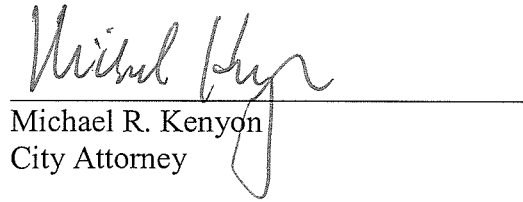
The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the City, which shall be attached to the original Agreement.

THE CITY OF NORTH BEND,
WASHINGTON



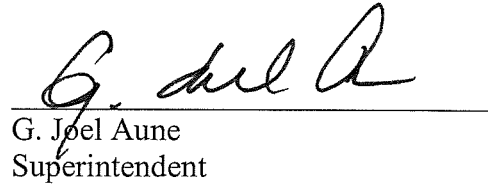
Mayor Kenneth G. Hearing

APPROVED AS TO FORM:



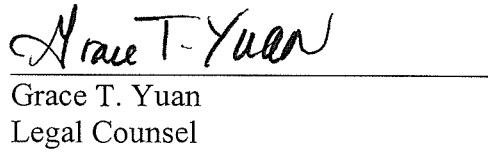
Michael R. Kenyon
City Attorney

SNOQUALMIE VALLEY
SCHOOL DISTRICT NO. 410



G. Joel Aune
Superintendent

APPROVED AS TO FORM:



Grace T. Yuan
Legal Counsel